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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,769	02/04/2004	Jay Z. Muchin	082454-0110	2358

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RATHE PATENT & IP LAW  
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MEQUON, WI 53097

EXAMINER
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PORTER, RACHEL L

ART UNIT	PAPER NUMBER
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3626

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01/08/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/772,769	MUCHIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	RACHEL L. PORTER	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Notice to Applicant***

1. This communication is in response to the application filed 2/4/04. Claims 1-5 are pending.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-3 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the present claim recites the limitation "associating a member with each of the main sections." It is unclear to the examiner what the recited "member" includes. In particular, it is unclear if the applicant intends to claim filling out information in a particular field, associating a patient with the form(s), or another possible interpretation (.e.g. attaching an object to some portion of the sections). Claims 2-3 inherit the deficiencies of claim 1 through dependency and are also rejected.

Regarding claim 5, the use of the "and/or" phrase renders the claim vague and indefinite because it is unclear which features are required as a part of the claimed invention. In other words, it is not clear whether one or both of the listed features are required for the claimed invention. For the purpose of applying art, the Examiner will interpret "and/or" as "or" and apply art according.

### ***Specification***

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The abstract of the disclosure is objected to because it exceeds 150 words.

Correction is required. See MPEP § 608.01(b).

6. The spacing of the lines of the specification is such as to make reading difficult.

New application papers with lines 1½ or double spaced on good quality paper are required.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, and 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raab (US 20020125713A1) in view of Garcia (US 5,065,315).

[claim 1] Raab discloses a method for arranging medical information, the method comprising:

- binding a plurality of pages; (par. 21)
- dividing the plurality of pages into a plurality of main sections; (par. 22-23)
- associating a member with each of the main sections; (par. 22: customized for each patient)
- recording identification information for each member in the main sections; (Figure 2—Table of contents and pagination connects and identifies personal information)
- dividing each main section into a plurality of subsections; (Figures 2-9; par. 22)
- recording a plurality of medical events in a first subsection of the plurality of subsections, wherein each medical event includes a first reference indicia; (Figure 4, par. 25)
- recording a plurality of dental events in a second subsection, wherein each dental event includes a second reference indicia; (Figure 2: dentist, name, date of visit)
- recording a plurality of medication information entries in a fourth subsection, wherein each medication information entry includes a linking indicia corresponding to a reference indicia to link each medication entry to one of the

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medical event, the dental event or the vision event. (Figure 5-6: patient provides name of medication, contents, why each medication is taken )

Raab discloses a method and system for gathering and recording a health events including a variety of medical practitioners. (Figures 2, 5, 7-9) Raab does not expressly disclose recording plurality of vision events in a third subsection, wherein each vision event includes a third reference indicia. Garcia discloses a sytem and method including recording plurality of vision events (Appendix I, page 1 "Review of Systems" : "Head/Eyes, last eye exam, burning, dryness, etc."), wherein the each vision event includes a (third) reference indicia. At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method of Raab with the teaching of Garcia to gather infomation regarding vision events. One would have been motivated to inlcude this feature to take a comprehensive patient history, and to ensure that the patient receives appropriate treatment.

[claim 4] Raab discloses a medical information system comprising:

- a plurality of sections bound together, each section corresponding to a member of a group, (par. 21)
  - each section including:
    - a first subsection prompting recordation of a medical event; (Figure 4, par. 25)

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- a second subsection prompting recordation of a dental event; (Figure 2: dentist, name, date of visit)
- a fourth subsection prompting recordation of medication information, (Figures 5-6)
- wherein each of the first three subsections further prompts recordation of or includes a reference indicia and (Figures 5-6)
- wherein the fourth subsection further prompts recordation of or includes a linking indicia corresponding to a reference indicia to link each medication information entry to one of the medical event, the dental event or the vision event. (Figure 4, par. 25)

Raab discloses a method and system for gathering and recording a health events including a variety of medical practitioners. (Figures 2, 5, 7-9) Raab does not expressly disclose recording plurality of vision events in a third subsection, wherein each vision event includes a third reference indicia. Garcia discloses a sytem and method including recording plurality of vision events (Appendix I, page 1 "Review of Systems" :

"Head/Eyes, last eye exam, burning, dryness, etc."), wherein the each vision event includes a (third) reference indicia. At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Raab with the teaching of Garcia to gather infomation regarding vision events. One would have been motivated to inlcude this feature to take a comprehensive patient history, and to ensure that the patient receives appropriate treatment.

[claim 5] Raab discloses a .medical information system comprising:

- a plurality of sections bound together, each section corresponding to a member of a group, (par. 21)
  - each section including:
    - a first subsection prompting recordation of a medical event; (Figure 4, par. 25)
    - a second subsection prompting recordation of a dental event; (Figure 4, par. 25)
    - a log found within a fourth subsection prompting recordation of information logging surgeries or hospitalizations, (Figure 7—hospital tests)
    - wherein each of the first three subsections further includes a reference indicia and wherein the log found within the fourth subsection further prompts recordation of or includes a linking indicia corresponding to a reference indicia to link each surgery or hospitalization entry to one of the medical event, the dental event or the vision event. (Figure 4, par. 25)

Raab discloses a method and system for gathering and recording a health events including a variety of medical practitioners. (Figures 2, 5, 7-9) Raab does not expressly disclose recording plurality of vision events in a third subsection, wherein each vision event includes a third reference indicia. Garcia discloses a sytem and method including



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recording plurality of vision events (Appendix I, page 1 "Review of Systems" :

"Head/Eyes, last eye exam, burning, dryness, etc."), wherein the each vision event includes a (third) reference indicia. At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Raab with the teaching of Garcia to gather information regarding vision events. One would have been motivated to include this feature to take a comprehensive patient history, and to ensure that the patient receives appropriate treatment.

9. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raab (US 20020125713A1) and Garcia (US 5,065,315) and in further view of claim Mangini et al (US 5,048,870).

[claims 2-3] Raab and Garcia discloses a method and system for gathering and recording a health events and prescription information from patients. (Figures 2, 5, 7-9). Raab further discloses capturing prescription information in a subsection of the of patient record. However, Raab and Garcia do not disclose discloses a method wherein recording the medical information includes adhering prescription label to a fourth subsection of a patient record.

Mangini discloses a method wherein a prescription label is attached/adhered to a page of patient medical record. (col. 2, lines 54-68) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method of Raab and Garcia in combination with the teaching of Mangini to attach a prescription label to the medical record to provide medical information. As suggested by

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Mangini, one would have been motivated to include this feature for ease of retrievability of data and to ensure that the proper information is conveyed for dispensing and refilling the medication. (col. 7, lines 63-col. 8, line 3)

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Jackson (US 4,621,729); Pissanos et al (US006128620A); Kumar-Misir (US 4,428,733).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RACHEL L. PORTER whose telephone number is (571)272-6775. The examiner can normally be reached on M-F, 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, (Christopher) Luke Gilligan can be reached on (571) 272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. L. P./  
Examiner, Art Unit 3626

/C Luke Gilligan/  
Supervisory Patent Examiner, Art Unit 3626